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7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**  
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10 JAMES DAVIS,

11 Plaintiff,

12 v.

13 THE STATE OF NEVADA, *et al.*,

14 Defendants.  
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Case No. 2:10-CV-1364-KJD-PAL

**ORDER**

16 Plaintiff filed this action pursuant to 42 U.S.C. § 1983. On January 7, 2011, Magistrate Judge  
17 Peggy A. Leen issued an Order and Report of Findings and Recommendations (#12) recommending  
18 that plaintiff's application to proceed *in forma pauperis* be denied because he has had "three strikes"  
19 under 28 U.S.C. § 1915(g), unless Plaintiff pay the full filing fee on or before February 4, 2011.

20 On January 20, 2011 plaintiff filed a handwritten document, not on the court's form, that he  
21 called "Declaration of Request for Leave to proceed *in forma pauperis*" (#13). He repeats some of  
22 the allegations set forth in an earlier "affidavit" that he fears for his life in prison. Plaintiff has  
23 already been advised that these allegations are unrelated to the complaint in this action. To the  
24 extent the declaration is a motion, it is denied.

25 Objections to the report and recommendation were due no later than January 24, 2011.  
26 Payment of the full filing fee was due no later than February 4, 2011.

1 More than the allotted time has elapsed and plaintiff has not paid the filing fee or filed  
2 objections, other than the "Declaration". Accordingly, this entire action will be dismissed for failure  
3 to comply with the court's order.

4 Accordingly, **IT IS HEREBY ORDERED** that the Order and Report of Findings and  
5 Recommendation (#12) of the United States Magistrate Judge entered January 7, 2011, is  
6 **ADOPTED** and **AFFIRMED**;

7 **IT IS FURTHER ORDERED** that Plaintiff's Motion/Application for Leave to  
8 Proceed *in forma pauperis* (#1) is **DENIED**;

9 **IT IS FURTHER ORDERED** that Plaintiff's complaint is **DISMISSED without**  
10 **prejudice** for failure to comply with the Court's order to pay the filing fee;

11 **IT IS FURTHER ORDERED** that plaintiff's Declaration of Request for Leave to proceed *in*  
12 *forma pauperis*" (#13) is **DENIED**.

13 DATED this 8<sup>th</sup> day of February 2011.  
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17 Kent J. Dawson  
18 United States District Judge  
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